

105TH CONGRESS
1ST SESSION

S. 693

To amend the Internal Revenue Code of 1986 to provide that the value of qualified historic property shall not be included in determining the taxable estate of a decedent.

IN THE SENATE OF THE UNITED STATES

MAY 5, 1997

Mr. D'AMATO introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide that the value of qualified historic property shall not be included in determining the taxable estate of a decedent.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. EXCLUSION FROM ESTATE TAX FOR HISTORIC**
4 **PROPERTY SUBJECT TO PRESERVATION**
5 **EASEMENT.**

6 (a) IN GENERAL.—Part IV of subchapter A of chap-
7 ter 11 of the Internal Revenue of 1986 (relating to taxable

1 estate) is amended by adding at the end the following new
 2 section:

3 **“SEC. 2057. QUALIFIED HISTORIC PROPERTY.**

4 “(a) GENERAL RULE.—For purposes of the tax im-
 5 posed by section 2001, the value of the taxable estate shall
 6 be determined by deducting from the value of the gross
 7 estate an amount equal to the value of any qualified his-
 8 toric property included in the gross estate.

9 “(b) DEFINITIONS.—For purposes of this section—

10 “(1) QUALIFIED HISTORIC PROPERTY.—

11 “(A) IN GENERAL.—The term ‘qualified
 12 historic property’ means any historic property
 13 if—

14 “(i) on or before the date on which
 15 the return of the tax imposed by section
 16 2001 is filed, a qualified real property in-
 17 terest described in section 170(h)(2)(C) in
 18 such property is held by a qualified organi-
 19 zation for the purpose described in section
 20 170(h)(4)(A)(iv), and

21 “(ii) such property is covered by an
 22 agreement meeting the requirements of
 23 subsection (c) which is entered into on or
 24 before such date.

1 “(B) TREATMENT OF PERSONAL PROP-
 2 ERTY.—Such term includes personal property
 3 included within, or associated with, qualified
 4 historic property (as defined in paragraph (1))
 5 if such personal property—

6 “(i) is held by the decedent holding
 7 such qualified historic property,

8 “(ii) has been so included within, or
 9 associated with, such qualified historic
 10 property throughout the 10-year period
 11 ending on the date of the decedent’s death,
 12 and

13 “(iii) is covered by the agreement re-
 14 ferred to in subparagraph (A)(ii) which
 15 covers such qualified historic property.

16 “(2) HISTORIC PROPERTY.—The term ‘historic
 17 property’ means—

18 “(A) any building (and its structural com-
 19 ponents)—

20 “(i) which is designated as a National
 21 Historic Landmark under section 101 of
 22 the National Historic Preservation Act
 23 throughout the 10-year period ending on
 24 the date of the decedent’s death,

1 “(ii) which was owned by the decedent
 2 or a member of the decedent’s family (as
 3 defined in section 2032A(e)(2)) throughout
 4 such 10-year period, and

5 “(iii) which was originally used for
 6 residential purposes, and

7 “(B) any other real property to the extent
 8 reasonably necessary for public view and visita-
 9 tion of the property described in subparagraph
 10 (A).

11 “(3) QUALIFIED ORGANIZATION.—The term
 12 ‘qualified organization’ has the meaning given to
 13 such term by section 170(h)(3).

14 “(4) TREATMENT OF QUALIFIED HISTORIC
 15 PROPERTY HELD BY A CORPORATION.—In the case
 16 of a corporation all of the stock in which was held
 17 on the date of the decedent’s death by the decedent
 18 or members of the decedent’s family (as defined in
 19 section 2032A(e)(2))—

20 “(A) stock in such corporation shall be
 21 treated for purposes of this section as qualified
 22 historic property to the extent that the value of
 23 such stock is attributable to qualified historic
 24 property held by such corporation, but

1 “(B) the requirements of subsection (c)
 2 shall be met only if each member of the dece-
 3 dent’s family holding such stock on such date
 4 sign the agreement referred to in subsection (c).

5 “(c) REQUIREMENTS FOR AGREEMENT.—

6 “(1) IN GENERAL.—For purposes of subsection
 7 (b)(1)(A)(ii), an agreement meets the requirements
 8 of this subsection if—

9 “(A) such agreement is a written agree-
 10 ment signed by each person in being who has
 11 an interest (whether or not in possession) in the
 12 historic property (other than the qualified orga-
 13 nization),

14 “(B) such agreement is entered into with
 15 a State historic preservation agency (or similar
 16 State agency) and filed with the Secretary with
 17 the return of the tax imposed by section 2001,

18 “(C) such agreement provides that the only
 19 activities carried on at the historic property are
 20 activities which are substantially related (aside
 21 from the need for income or funds or the use
 22 made of the profits derived) to—

23 “(i) the public view and visitation of
 24 such property and the property described

1 in the last sentence of subsection (b)(1)
 2 with respect to such property), and

3 “(ii) the maintenance and preserva-
 4 tion of such property and surrounding
 5 areas for such public view and visitation,

6 “(D) such agreement provides that the his-
 7 toric property will be open to the public for a
 8 period of at least 20 years beginning on the
 9 date on which the return of the tax imposed by
 10 section 2001 is filed, and

11 “(E) such agreement provides that any ad-
 12 mission fees (if any) shall bear a reasonable re-
 13 lationship to admission fees for other com-
 14 parable tourist sites and shall be approved by
 15 such State historic preservation agency (or
 16 similar State agency).

17 “(2) TREATMENT OF FOOD, LODGING, AND
 18 MEETING FACILITIES PROVIDED TO GENERAL PUB-
 19 LIC.—The regular carrying on—

20 “(A) a trade or business of providing lodg-
 21 ing shall be treated as not substantially related
 22 for purposes of paragraph (1)(C),

23 “(B) a trade or business of providing food
 24 shall be treated as not substantially related for
 25 purposes of paragraph (1)(C) unless—

1 “(i) such food is only provided to indi-
 2 viduals who pay the generally applicable
 3 admission fees (if any) for admission to
 4 the property by individuals to whom no
 5 food is provided, and

6 “(ii) only an insubstantial portion of
 7 the structures on the historic property is
 8 devoted to the provision of such food, and

9 “(C) a trade or business of providing facili-
 10 ties for meetings or events shall be treated as
 11 not substantially related for purposes of para-
 12 graph (1)(C) unless all of the net proceeds from
 13 such trade or business are used for mainte-
 14 nance or preservation of the historic property.

15 “(3) OPEN TO THE PUBLIC.—For the purposes
 16 of paragraph (1)(D), the 20-year period referred to
 17 in such paragraph shall be suspended during reason-
 18 able periods of renovation.

19 “(d) TAX TREATMENT OF DISPOSITIONS AND FAIL-
 20 URE TO COMPLY WITH AGREEMENT.—

21 “(1) IMPOSITION OF ADDITIONAL ESTATE
 22 TAX.—If, during the 20-year period referred to in
 23 subsection (c)(1)(D)—

24 “(A) any person signing the written agree-
 25 ment referred to in subsection (c) disposes of

1 any interest in the qualified historic property,
 2 or

3 “(B) there is a violation of any provision
 4 of such agreement (as determined under regula-
 5 tions prescribed by the Secretary),

6 then there is hereby imposed an additional estate
 7 tax.

8 “(2) EXCEPTION FOR CERTAIN TRANSFEREES
 9 WHO AGREE TO BE BOUND BY AGREEMENT.—No tax
 10 shall be imposed under paragraph (1) by reason of
 11 any disposition if the person acquiring the prop-
 12 erty—

13 “(A) is a qualified organization or is a
 14 member of the family (as defined in section
 15 2032A(e)(2)) of the person disposing of such
 16 property, and

17 “(B) agrees to be bound by the agreement
 18 referred to in subsection (b)(4) and to be liable
 19 for any tax under this subsection in the same
 20 manner as the person disposing of such prop-
 21 erty.

22 “(3) AMOUNT OF ADDITIONAL TAX.—

23 “(A) IN GENERAL.—The amount of the
 24 additional tax imposed by paragraph (1) with
 25 respect to any property shall be an amount

equal to the applicable percentage of the excess
of—

“(i) what would (but for subsection
(a)) have been the tax imposed by section
2001 (reduced by the credits allowable),
over

“(ii) the tax imposed by section 2001
(as so reduced).

“(B) APPLICABLE PERCENTAGE.—For
purposes of subparagraph (A), the applicable
percentage is the percentage determined in ac-
cordance with the following table for the year
(of 20-year period referred to in subsection
(c)(1)(D)) in which the event described in para-
graph (1) occurs:

“If the event occurs during:	The applicable percentage is:
The 1st 12 years of such 20-year period	100 percent
The 13th or 14th year of such period	80 percent
The 15th or 16th year of such period	60 percent
The 17th or 18th year of such period	40 percent
The 19th or 20th year of such period	20 percent.

“(4) DUE DATE.—The additional tax imposed
by this subsection shall be due and payable on the
day which is 6 months after the date of the disposi-
tion or violation referred to in paragraph (1).

“(5) LIABILITY FOR TAX.—Any person signing
the agreement referred to in subsection (c) (other
than the executor) shall be personally liable for the

1 additional tax imposed by this subsection. If more
 2 than 1 person is liable under this subsection, all
 3 such persons shall be jointly and severally liable.

4 “(6) CERTAIN OTHER RULES TO APPLY.—Rules
 5 similar to the rules of sections 1016(c), 2013(f), and
 6 2032A(f) shall apply for purposes of this subsection.

7 “(e) OTHER SPECIAL RULES.—

8 “(1) COORDINATION WITH DEDUCTION FOR
 9 TRANSFER OF EASEMENT.—Section 2055(f) shall
 10 not apply to any interest referred to therein with re-
 11 spect to property for which a deduction is allowed
 12 under subsection (a).

13 “(2) DENIAL OF DEDUCTION OF INDEBTED-
 14 NESS ON EXCLUDED PROPERTY.—No deduction
 15 shall be allowed under section 2053 for indebtedness
 16 in respect of property the value of which is deducted
 17 under subsection (a).

18 “(3) SUBMISSION OF ANNUAL INVENTORIES OF
 19 PERSONAL PROPERTY.—The Secretary shall require
 20 the submission to the Secretary of such inventories
 21 of personal property which is qualified historic prop-
 22 erty as the Secretary determines are necessary for
 23 purposes of this section.”

24 (b) TECHNICAL AMENDMENTS.—

1 (1) Subsection (a) of section 1014 of such Code
 2 is amended by striking the period at the end of
 3 paragraph (3) and inserting “, or” and by adding
 4 after paragraph (3) the following new paragraph:

5 “(4) in the case of property the value of which
 6 was deducted under section 2057(a), the adjusted
 7 basis of such property in the hands of the decedent
 8 immediately before the death of the decedent.”

9 (2) Subparagraph (A) of section 2056A(b)(10)
 10 of such Code is amended by inserting “2057,” after
 11 “2056,”.

12 (3) The table of sections for part IV of sub-
 13 chapter A of chapter 11 of such Code is amended by
 14 adding at the end the following new item:

“Sec. 2057. Qualified historic property.”

15 (c) EFFECTIVE DATE.—The amendments made by
 16 this section shall apply with respect to the estates of dece-
 17 dents dying after the date of the enactment of this Act.

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